

HOME

Rental Housing Development

PROGRAM GUIDE

2006

This Program Guide provides a general overview Wisconsin's HOME Rental Housing Development (RHD) Program, as administered by Wisconsin Commerce Division of Housing and Community Development (DHCD). It is designed to acquaint prospective Applicants with the basic features and requirements of the HOME Program and thereby to assist them in applying for RHD Program funds. It is primarily an informational tool, and does not attempt to provide a complete and exhaustive statement of all rules and requirements of the HOME Rental Housing Development Program.

The HOME Program is governed by the Federal regulations (the "Regulations") 24 CFR 92 "HOME Investment Partnerships Program; Final Rule" and applicable state and federal laws.

<http://www.hud.gov/offices/cpd/affordablehousing/programs/home/index.cfm>

If you require additional information about the HOME Rental Housing Development Program, contact Meryl Lesch at DHCD, Bureau of Local Development at (608) 267-6912 or email at meryl.lesch@wisconsin.gov

For additional housing program information:

<http://commerce.wi.gov/housing/cd-boh-home.html> ;

Wisconsin Housing and Economic Development Authority
<http://wheda.com>

OVERVIEW

The HOME Program was created under Title II of the National Affordable Housing Act of 1990 and amended and reauthorized by the Housing and Community Development Act of 1992. The general purposes of HOME are:

To expand the supply of decent and affordable housing, particularly rental housing, for low- and very low-income Americans.

To strengthen the abilities of state and local governments to design and implement strategies for achieving adequate supplies of decent, affordable housing.

To extend and strengthen partnerships among all levels of government and the private sector, including for-profit and nonprofit organizations, in the production and operation of affordable housing.

Projects that are considered part of the following are prohibited under the HOME Program:

- Public housing modernization, maintenance, and operation;
- tenant subsidies for certain special purposes mandated under Section 8;
- Providing nonfederal matching funds for any other federal programs;
- Activities under the Low-Income Housing Preservation Acts of 1987 and 1990;
- Emergency and temporary housing and PHA-owned or leased projects;
- Providing assistance to properties previously assisted with HOME funds; and
- Funding project reserve accounts for replacements or unanticipated increases in operating costs or subsidies.

The local Participating Jurisdictions (PJs) cities of Eau Claire, Green Bay, Kenosha, La Crosse, Madison, Milwaukee, Racine; and counties of Dane, Jefferson, Milwaukee, Rock, Ozaukee, Washington, Waukesha, have HOME funds directly from the U.S. Department of Housing and Urban Development, (HUD); therefore, this program is not available in local PJs.

Wisconsin Department of Commerce, Division of Housing and Community Development has been designated the administrator of the state allocation of the HOME, herein after referred to as the "State". Rental housing development is one of the eligible activities of the HOME Program, hereinafter referred to as RHD. The priorities of RHD are:

- To provide leverage of private financing for affordable rental housing.
- To provide persons at or below 30% of CMI additional affordable housing units.
- To provide Gap financing for affordable rental housing.

The State will accept applications in the RHD category for acquisition, rehabilitation and new construction of multi-family rental housing for low-income persons. Corporate structures or legal entities within the State of Wisconsin and Community Housing Development Organizations (CHDO) may apply under the RHD Program.

A Community Housing Development Organization (CHDO) is a nonprofit organization that has previously met established criteria under the HOME Program and has received a current CHDO designation from the State. CHDOs may loan these funds to projects owned by for-profit or not-for-profit entities.

Applicants may submit up to two projects for consideration by each RHD due date of June 1st, September 1st, December 1st, and March 1st. Mailed application packets must be postmarked on or before the due dates.

Applicants are required to have a project presentation review with RHD representatives prior to any submission of application. Document the date on the *Application Submission Checklist*.

No acquisition, relocation of occupants or construction of HOME related units may begin prior to the execution of a contract, without written authorization from State. The Commitment Letter does not serve as an authorization to begin project activity. Construction must begin within 18 months of the date of the Application.

The HOME Program Guidelines and restrictions stipulated by HUD regulations include rent and income limits, compliance affordability period, and property standards as described in 24CFR 92.

In a project, 20% of the HOME assisted units must be fixed as restricted for persons who initially are at or below 50% County Median Income (CMI). Due to IRS regulations and RHD program rules, Low-Income Housing Tax Credit (LIHTC) projects must have 40% of units for persons who initially are at or below 50% CMI. The HOME units fixed in categories of LOW, SUB or SRO units shall satisfy this requirement.

The HUD published or calculated HOME rent limits are defined to include unit rent and utilities. The categories of RHD HOME units are as follows:

- | | |
|-------------------|--|
| HIGH Unit: | This unit requires at initial occupancy the household gross income not to exceed 60% CMI. The calculation of rent may not exceed the lesser of 30% of 65% CMI or Fair Market Rent (FMR). HUD publishes a HIGH unit rent per county or MSA. |
| LOW Unit: | This unit requires at initial occupancy the household gross income not to exceed 50% CMI. The calculation of rent may not exceed the lesser of 30% of 50% CMI or FMR. HUD publishes the LOW rent per county or MSA. |
| SUB Unit: | This unit requires at initial occupancy the household gross income not to exceed 30% CMI. The calculation of rent may not exceed the lesser of 50% of High unit rent as described above or FMR. |
| SRO Unit: | This unit requires at initial occupancy the household gross income not to exceed 30% CMI. The calculation of rent is 75% of FMR for a 0 bedroom unit. |

Square Footage Formula

RHD Program requires the Applicant to make its request for funds based on a square footage formula for each HOME unit with no more than 11 HOME assisted units in a project. Common areas, basements, porches, garages, etc. are not to be considered as part of the square footage calculation. SRO units may include the unit and a pro ration of the shared living space to determine the square footage

HOME Program requests are subject to the following calculations.

1. Determine the Rent Category for each unit size being considered for HOME funds.
2. Multiply the Rent Category Sq. Ft rate by the proposed unit's square footage.
3. Make a comparison of the maximum unit amount against the project calculation to determine the maximum request.
4. Add the amounts for all proposed HOME units to be considered in the application.

RHD TABLE 1

RENT CATEGORY	Bedrooms in Unit	0	1	2	3
	MAX. SQ.FT.	400	700	900	1200
	SQ.FT. RATE				
HIGH	\$30.00	\$12,000	\$21,000	\$27,000	\$36,000
LOW	\$43.00	\$17,200	\$30,100	\$38,700	\$51,600
SUB / SRO	\$60.00	\$24,000	\$42,000	\$54,000	\$72,000

RHD TABLE 2

CHDOs ONLY

RENT CATEGORY	Bedrooms in Unit	0	1	2	3
	MAX. SQ.FT.	400	700	900	1200
	SQ.FT. RATE				
HIGH	\$35.00	\$14000	\$24500	\$31500	\$42000
LOW	\$50.00	\$20000	\$35000	\$45000	\$60000
SUB / SRO	\$70.00	\$28000	\$49000	\$63000	\$84000

The State shall award grants directly to the CHDO. The CHDO shall provide a loan of the HOME funds to a project in which the CHDO is a managing member of a Limited Liability Company (LLC) or Limited Partnership (LP) or in which the CHDO acts as a sponsor for another non-profit agency. The CHDO shall execute a note secured by a recorded mortgage with the Borrower at a 3% annual interest rate, payable to the CHDO over 30 years with an initial 3 year deferral of both principal and interest subject to cash flow as described by State.

A CHDO may be eligible for CHDO Operating Funds in the amount of ten percent of the HOME activity funds awarded not to exceed \$50,000 as a developer fee. These Operating

Funds are not guaranteed and may be set at an amount less than ten percent of the activity funds and are subject to limits imposed by HUD.

UNDERWRITING

Upon submission of a completed application package staff will do a technical overview to determine its completeness. Incomplete applications may be withdrawn for further consideration.

Reviewers will make comments and recommendations. A status letter will be sent to Applicants if there are concerns that may need clarification or additional information prior to the Department Committee process.

There is an estimated 90 day turn around time from the date the application deadline until approvals are signed by the Department.

Following Department Committee process either a commitment with contingencies or denial letter will be provided. Any additional contingencies must be met before a contract will be executed between the State and the Applicant/or executed by the State.

The actual terms of the agreement will be set forth in a contract to be negotiated between State and the Applicant. The Applicant will have 60 days as of the date of the Commitment letter to satisfy any contingencies and submit additional documents and information needed for the development of a Contract. The Department will have an additional 30 days to complete the contract.

Criteria

In evaluating applications for RHD funds funding the State may consider the such factors but are not limited to the following.

1. Program Type

The extent to which the application addresses at least one of the areas of special focus as stated in the State's Consolidated Plan. These priorities include:

- Affordability of housing to all consumers, especially those with severe cost burdens to increase and maintain affordable housing;
- Adequate production of new units, including the adequate production of large family and elderly housing activities;
- The preservation and increase of the availability of safe, sanitary housing for low-income renters;
- Housing assistance for special needs groups, including homeless prevention activities and expanding transitional housing programs;
- Continuance of fairness and accessibility for all housing consumers, including enforcement and compliance with fair housing laws; and
- Continued efforts to assist with housing disaster relief.

2. Ability and Preparedness

- Applicant's capacity. Ability of the Applicant to implement the proposed project.
- The number of projects the development team is responsible for during the timeframe of the project being considered. The State will look at the experience and success of the development team, including the past performance of the Applicant in completing previous State funded activities.
- Timing and readiness to proceed. Priority will be given to developments having projects that are ready to proceed. Applicant's ability to meet the time frames

established by the HOME Program regulations will be considered. Other factors that

indicate readiness to proceed include: full development of the project at time of application, commitments of other funds and service providers, identification of the population to be served, appropriate zoning, no adverse environmental impact, and community approval of the project. Preference will be given to the applications with site control.

Following the awarding of funds, an Applicant will need to report progress toward fulfilling contingencies needed in order to execute a contract. The State reserves the right to terminate the contractual process if said reports are not received or if sufficient progress toward a contract is not being reached.

3. Projected Impact of the Program

- Relocation costs. Projects which do not involve relocation of existing occupants or tenants are strongly preferred to those that involve relocation. Please review carefully the relocation section of this program guide.
- Benefit to low-income families and individuals. Applications which serve very low-income persons in HOME assisted units will have priority. These funds may not be used for projects which do not increase the number of units available to low- and very low-income households or do not materially change their living conditions, but are essentially transfer of ownership.
- Affordability period. The extent to which a proposed project exceeds the minimum compliance requirements set by HUD and the State.
- Supportive services. Applications should include strong commitments for appropriate supportive services for residents.

4. Financing Plan

- Commitment of other funds. The State will look for the amount of private financing to be leveraged by the proposal; other public funding to be committed to the activity; and the availability of eligible matching funds that may exceed the 25% match requirement. LIHTC must be awarded prior to submitting an RHD application.
- Form of investment. RHD funds are provided as a loan. The terms of the loan shall be a 30 year mortgage, at 3% interest rate, payments of principal and interest deferred for the first three years with a 27-year amortization. RHD funds may be provided as a grant to a State designated CHDO under the CHDO set-aside. If the CHDO acts as a sponsor for another non-profit or as a general partner or managing member of a profit entity, the CHDO is required to provide a loan to such other entity at terms described above. The length of the loan shall, at a minimum, be the same as the affordability period for the project.
- Feasibility of the project over time. Extent to which a project remains feasible using various underwriting scenarios.
- Cost per unit of the project. Proposals with a lower cost per unit will be favored. However, consideration will be given to extra costs of a project that include construction design features that address the needs of tenants with special needs.
- Other financing consideration. The equity contribution of the Applicant and the amount and appropriateness of non-construction costs will be considered.

5. Location Factors

- Absence of hazards. Projects that are free from potential nuisances and environmental hazards and where contiguous land uses are compatible will be favored.
- Infrastructure. Projects where public services, infrastructure and linkages (transportation, shopping, etc.) are available to the development will be considered positively.
- Community support of the proposal. Documented support by local government and community agencies will be considered positively.
- Location of the project. Priority will be given to projects located in areas which have not previously received RHD funds.

6. Documentation of a market

- Documentation that a market exists for the proposed housing in the community, including the results of any surveys and market studies conducted, or any other analysis that was performed, will be considered favorably.

7. Physical Characteristics

- Accessibility or adaptability for persons with disabilities.
- Energy efficiency.
The Applicant shall identify the level of energy efficiency, which will be attained, thereby controlling utility expenses. The project shall demonstrate a long-term commitment to affordability, resource efficiency and indoor environmental quality, by reducing building utility consumption substantially below levels required by code, minimizing the source energy consumption of installed systems and provided appliances, and assuring the functionality of installed ventilation systems. The projects shall include minimum specifications listed. Preferred projects will include some combination of the 'enhancements'.

Mandatory

Architect or engineer shall certify that the building as a whole shall have an energy consumption level 15% below the "Standard Design" defined by Wisconsin Commercial Building Code, Chapter 63. (a) A certified letter shall accompany the application, signed by the project architect or engineer, stating that the mandatory requirements will be met. (b) Prior to final disbursement of funds and Completion Report, Applicant shall provide envelope and mechanical systems worksheets verifying the 15% standard has been met, and general contractor shall provide a statement certifying that the specified systems have been installed and that the specified building envelope standards have been met. (c) Installers shall verify that all ventilation equipment exhausts to outside of building, and test to demonstrate performance to at least 76% of rated capacity.

All space heating and domestic water heating systems to be fueled by NG, LGP, or by a renewable energy source, as defined by Chapter Comm. 63.

Rehabilitation projects shall meet the above standards, or obtain a waiver from the State, specifying how the maximum cost-effective energy performance will be obtained.

Enhancements - Preferred projects may include, in order of priority:

ENERGY STAR rated space-heating system
ENERGY STAR rated common area and exterior lighting
ENERGY STAR rated air-conditions system (if applicable)
ENERGY STAR rated refrigerators (if provided)

- Infill development

The project shall maximize land use efficiency by placing the project as much as possible, within existing services areas to minimize its impact on the surrounding community and maximize the independence of its residents. Projects will have some combination of the following characteristics:

- ✓ Built on property already served by utility systems, or on property requiring minimal service extension, as demonstrated by existing service map.
- ✓ Sited within walking access of existing downtown or retail districts, services, and local institutions (map showing site relative to existing shopping, post office, libraries, churches, offices, etc.).
- ✓ Be served by existing transit services, or include a commitment to extend transit services to property boundary.
- ✓ Place new construction on a previously built site.

8. Applicant's Organization information will include the following:

- The capacity of the organization to develop the project as outlined in the application.
- The financial management history of the organization.
- The strength of the organization.
- The housing experience of the organization.

24 CFR 92 REQUIREMENTS

1. Maximum Per-Unit Subsidy and Affordability Period

In addition to the Maximum Amounts based on Square Footage, HOME-assisted rental units in a development are limited to maximum dollar amounts and must adhere to the rent and income limits during the Affordability Compliance Period.

2. Matching funds requirement

Affordable housing developments assisted with HOME funds need to include eligible matching sources. For all activity under this program, the Applicant should provide at least a 25% match in eligible project funds. Refer to Final Rule for additional information concerning eligible match.

- ✓ *Sources*

As a general rule of thumb, permanent, non-federal sources of funds, that are non-refundable contributions from the State of Wisconsin, local government, or non-owner private sources, generally qualify as a matching contribution.

Eligible sources of match include: non-owner cash; the present value of foregone interest; waived taxes, fees or charges; appraised value of land or real property; investments for on- or off-site improvements; supportive services; and sweat equity.

Ineligible sources of match include federal funds, market rate loans, the value of federal tax credits, and owner equity or investment in a project.

✓ **Reporting Match**

Application must list all eligible match sources (committed and uncommitted). Project awards are made based on the information provided here. At the time of completion, the grantee submits a Completion Report, which includes the matching and leveraging amounts. This form is then reviewed by the State and a determination made as to the eligibility and amounts of the match provided. The contract will obligate the dollar amount of match.

3. Property Standards

All HOME-assisted units must, at a minimum, meet Section 8 Housing Quality Standards (HQS). Any new construction or substantial rehabilitation of housing must also meet all applicable local codes, rehabilitation standards and zoning ordinances. Any housing newly constructed must meet the requirements of the Wisconsin Commerce Building Code. <http://www.legis.state.wi.us/rsb/code/comm/comm061.html>
In areas where there is no local building code, any failed HQS item must be brought up to the standard set forth by applicable code.

4. Property Size

The development size is unlimited for the purpose of the RHD application. The size of the development will be considered in reviewing the feasibility of the project. Labor standards must be applied for developments that exceed 11 HOME assisted units.

In multi-family structures it is encouraged, and often necessary, to have units available for a variety of income levels. Developments that have mixed incomes are eligible for HOME funds; however, these funds must be used exclusively for the identified HOME assisted units. The term mixed income used in the application shall mean a development that has a set number of units set aside as the identified HOME units and other units at market rate and/or set aside under other restrictions.

Developments that have mixed uses are eligible for HOME funds; however, these funds must be used exclusively for HOME assisted units. The term mixed use means the development includes space for both commercial and residential use.

5. Displacement, Relocation and Acquisition

Potential Applicants should carefully consider how their development may be impacted by the Uniform Relocation Act (URA) before making the final decision to apply for HOME funds or to obtain site control of a given property.

In all cases in which a proposed project site is either partially or fully occupied, additional information must be completed and submitted concurrently with the application. Stop and contact the State for instructions BEFORE PROCEEDING. The effective date for relocation assistance may be either the date of the application for HOME funds or the date the Applicant or co-owners obtain site control. Relocation expenses could render a viable project infeasible.

Relocation benefits are triggered under the URA when a resident is displaced permanently or temporarily. Some examples of situations that would be considered displacement are:

- ✓ Involuntary Moves. If a tenant must move in response to a notice to vacate premises because of impending acquisition and rehabilitation, or demolition;
- ✓ Non-Renewal of Lease. If a move results from the owner's refusal to renew an expiring lease;
- ✓ Failure to Inform Tenant in a Timely Manner or the impact of the project on him/her; and
- ✓ Economic Displacement caused by the changing rental structure of the proposed project.

Note: This is not an exhaustive list of displacement situations.

Residential tenants of projects assisted with HOME funds, who are required to move temporarily must be provided reimbursement for relocation to suitable, decent, safe and sanitary housing and given advance written notice of the date and duration of the temporary relocation. Such temporarily relocated residents must be provided a reasonable opportunity to lease and occupy a suitable and affordable unit in the rehabilitated building upon completion of the project. URA requirements may be applicable in many instances when HOME funds are used. Participants must comply with State procedures and federal regulations regarding displacement and relocation of households affected by projects using HOME funds.

(For details see: the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1976 [URA] [49 CFR Part 24], and the Fair Housing Act)

6. Equal Opportunity and Fair Housing

7. Affirmative Marketing

8. Tenant Selection and Participation

9. Environmental Review

(For details see: the National Environmental Policy Act and the regulations found in 24 CFR Part 50 and 24 CFR part 58)

Participants must comply with HUD and State policies regarding the responsibility of conducting environmental reviews on proposed development sites.

10. Labor

(For details see the Davis-Bacon Act, the Contract Work House and Safety Standards Act, and the Federal Labor Standards Compliance in Housing and Community Development Programs)

Any contract for rehabilitation or new construction of housing with more than 11 HOME assisted units must require the contractor to pay federal prevailing wage rates.

11. Lead-based Paint

12. Debarment and Suspension

(For details see: 24 CFR Part 24 Appendix B, Executive Order 12549)

All contractors used in connection with HOME funded projects must be certified to not be presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excused from participation from any federally-assisted construction projects.

13. Flood Insurance - (24 CFR 92.358)

14. Accessibility

(For details see: Rehabilitation Act of 1973 [29 U.S.C. 794], the Environmental Barriers Act)

All projects receiving HOME funding for construction must comply with the Section 504 of the Rehabilitation Act of 1973 and all other federal accessibility regulations. In addition to federal requirements, the projects and programs must comply with the State's Environmental Barriers Act and the Wisconsin Accessibility Code.

COMPLIANCE

1. Annual Compliance Data Report and Certification

The Annual Compliance Report form covers the period of October 1st through September 30th of each year covering Performance Period and Affordability Compliance Period. Annual certification from the Applicant will be required at the end of each December. It is the Applicant's responsibility to see that these certifications are received at the State before the due date and that yearly compliance forms are on file with the Applicant.

2. Record Keeping

Each Applicant for a RHD project will be required to maintain certain records that will be subject to annual review by State staff upon reasonable notice. The types of records include:

- a) Records and certifications which evidence compliance with income targeting requirements and rent levels throughout the applicable period of affordability;
- b) Records and certifications which demonstrate that HOME-financed units meet the applicable property standards;
- c) Leases that are in compliance with state and federal laws and 24 CFR 92;
- d) Records which indicate whether the project is mixed-income, mixed-use or both and that the project complies with the eligibility provisions for mixed-income and mixed-use projects;
- e) Data on the extent to which each racial and ethnic group and single-headed households (by gender of household head) have applied for, participated in, or benefited from any program funded in whole or in part with HOME funds;
- f) Documentation of actions undertaken to meet the equal opportunity and fair housing regulations.
- g) Documentation of an Applicant's outreach to minority-owned and female-owned businesses including data indicating the racial/ethnic or gender character of each business entity receiving a contract or subcontract of \$25,000 or more, paid or to be paid, with HOME funds, the amount of the contract or subcontract, and documentation of the Applicant's affirmative steps to assure that minority business and women's business enterprises have an equal opportunity to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction, and services;
- h) Records indicating compliance with affirmative marketing procedures;
- i) Records and certifications which indicate compliance with the federal environmental review requirements and the requirements of the State;

- j) Records which indicate compliance with the Uniform Relocation Act. This includes project occupancy lists identifying the name and address of all persons occupying the real property on the date the application was submitted, if the Applicant had site control and the application is later approved, or the date the State approved the site, if the Applicant did not have site control at the time of the application, and the name and address of all persons occupying the property upon project completion; and
- k) Records and certifications indicating compliance with the Davis-Bacon Act including contract provisions and payroll records, if applicable.

3. Monitoring

The State or its assigns will review the project to ensure compliance with HOME regulations and other relevant federal regulations. Reviews may also include on-site inspection of rental housing units and data collection procedures.

Issues that arise during the review of the Compliance Data Report Forms shall be addressed in a timely fashion by the submitting agency to assure that the project remains in compliance.

In the event that the project is found to be out-of-compliance for income or rents, remedies will be suggested by the State. Corrective action timetable actions will be set forth by the State.